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17 August 1955

MEMORANDUM FOR: Mr. Houston

SUBJECT: Construction of CIA Building

1. The basic language of the authorization is, as you know, contained in Title IV (§ 401): "The Director of Central Intelligence is authorized to provide for a headquarters installation for the Central Intelligence Agency . . . by the acquisition of land . . . and construction of buildings, facilities, appurtenances, utilities, and access roads . . ."

2. Title V of the same Act, in section 501, contains a general provision applicable in its terms to Central Intelligence Agency, which considerably expands this authority:

"The Secretary of the Army, Navy and Air Force are respectively authorized to proceed with the establishment or development of military and naval installations and facilities as authorized by Titles I, II and III of this Act, and the Director of Central Intelligence is authorized to proceed with the establishment of a Central Intelligence Headquarters installation as authorized by Title IV of this Act without regard to the provisions of sections . . . 3734, as . . . amended, of the revised statutes . . . (other sections from which exception is granted pertain to title approval by the Attorney General, advances to contractors, and the necessity for Congressional appropriations prior to construction) . . . The authority to establish or develop such installations and facilities shall include, in respect of those installations and facilities as to which family housing or the acquisition of land is specified in titles I, II, III, and IV of this Act, authority to make surveys and to acquire lands and rights and interests thereto or therein, including the temporary use thereof, by donation, purchase, exchange of Government-owned lands, or otherwise, and to place permanent or temporary improvements thereon whether such lands are held in fee or under lease' or under other temporary tenure."

3. Section 3734 of the revised statutes is embodied in the U. S. Code, Annotated, as section 267 of Title 40:

"No money shall be expended upon any public building until after sketch plans showing the tentative design and arrangement of such building, together with outline description

and detailed estimates of the cost thereof shall have been made by the Administrator of General Services (except when otherwise authorized by law) and said sketch plans and estimates shall have been approved by the head of each executive department who will have officials located in such building; but such approval shall not prevent subsequent changes in the design, arrangement, materials, or methods of construction or cost which may be found necessary or advantageous: **PROVIDED**, That no such changes shall be made involving an expense in excess of the limit of cost fixed or extended by Congress, and all appropriations made for the construction of such building shall be expended within the limit of cost so fixed or extended."

4. Clear exception of Central Intelligence Agency in constructing this building from 40 USC 267, pertaining to the approval of plans by the Administrator of General Services, would seem, a fortiori, to except Central Intelligence Agency from those provisions of Title 40, upon which GSA relies in claiming an exclusive authority to undertake construction. This inference is considerably strengthened by the explicit language of the above-cited last sentence of section 301 of P.L. 161.

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Office of General Counsel

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Distribution:

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